

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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SMART 7 CORPORATION,

Plaintiff,

23-CV-653 (JLS) (MJR)

v.

UNITED STATES OF AMERICA, and  
UNITED STATES OF AMERICA  
DEPARTMENT OF AGRICULTURE,  
FOOD AND NUTRITION SERVICE,

Defendants.

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### **DECISION AND ORDER**

Plaintiff, a retail grocery store, commenced this action on July 6, 2023. Dkt.

1. It seeks judicial review, pursuant to 7 C.F.R. § 279.7 and 7 U.S.C. § 2023, of a decision by the United States Department of Agriculture, Food and Nutrition Service, to revoke Plaintiff's Supplemental Nutrition Assistance Program participation eligibility. *See id.* ¶¶ 1, 29. This Court referred the case to United States Magistrate Judge Michael J. Roemer for all proceedings under 28 U.S.C. §§ 636(b)(1)(A), (B), and (C). Dkt. 4.

On September 11, 2023, Defendants moved to dismiss, or, in the alternative, for summary judgment. Dkt. 3. Plaintiff opposed the motion, Dkt. 5, and Defendants replied. Dkt. 6. On July 10, 2024, Judge Roemer issued a Report and

Recommendation (“R&R”) recommending that this Court dismiss the Complaint, with prejudice, for lack of subject matter jurisdiction. *See* Dkt. 9 at 11-12. No party filed objections, and the time to do so has expired.


A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge’s recommendation to which a party objects. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

This Court carefully reviewed the R&R and the relevant record. Based on that review, the Court accepts and adopts Judge Roemer’s recommendation.

Thus, for the reasons stated above and in the R&R, Defendants’ [3] motion is GRANTED, and the Complaint is dismissed with prejudice. The Clerk of Court shall close this case.

SO ORDERED.

Dated: August 13, 2024  
Buffalo, New York

  
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JOHN L. SINATRA, JR.  
UNITED STATES DISTRICT JUDGE